

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

**ROBERT PENDERGRASS,
ERIC KOECHLING, and
JAMES PATTON,**

Plaintiffs,

v.

BI-STATE UTILITIES CO.,

Defendant.

Case No. 4:18-CV-01092-NCC

ORDER OF PARTIAL REMAND

This matter is before the Court on the parties’ Joint Stipulation Regarding Motion to Remand (Doc. 15).¹ Plaintiffs filed this action for unpaid overtime wages in violation of the Fair Labor Standards Act (“FLSA”) and Missouri wage and hour laws (Counts I and II), for Quantum Meruit (Count III), for Unjust Enrichment (Count IV), and for Workers’ Compensation Retaliation (Count V) against Defendant Bi-State Utilities Co. (“Bi-State”) on May 17, 2018, in the Circuit Court of Saint Louis County, Missouri (Doc. 3). Counts I-IV are raised by all Plaintiffs against Bi-State and Count V, the Workers’ Compensation claim, is brought by Plaintiff Robert Pendergrass (“Pendergrass”) alone against Bi-State (*Id.*). On July 5, 2018, Bi-State timely removed the case to this Court based on federal question jurisdiction (Doc. 1). On July 10, 2018, Plaintiffs filed a Motion to Remand (Doc. 8) in which Plaintiffs assert that this action must be remanded because Plaintiffs bring a worker’s compensation claim under Missouri law, which is a “nonremovable claim” under 28 U.S.C. § 1445(c), and, therefore, the case may not be removed to federal court even if the action presents a federal question jurisdiction (Doc.

¹ The parties have consented to the jurisdiction of the undersigned United States

9). Defendant responded and indicated that while the Missouri workmen's compensation claim is a "nonremovable claim" under § 1445(c), 28 U.S.C. § 1441(c)(2) provides that such a claim shall be severed from the action and remanded to the state court from which the action was removed (Doc. 10). Subsequently, the parties filed the current Stipulation requesting that the Court enter an order whereby it retains original and supplemental jurisdiction over Plaintiffs' Counts I-IV and severs and remands to the St. Louis County Circuit Court Count V, the claim for Workers' Compensation Retaliation (Doc. 15). Indeed, "[a] civil action in any State court arising under the workmen's compensation laws of such State may not be removed to any district court of the United States." 28 U.S.C. § 1445(c). Upon removal of an action including a claim that has been nonremovable by statute, such is the case here, the district court shall sever from the action the nonremovable claim and remand the claim to the state court from which the action was removed. 28 U.S.C. § 1441(c)(2).

Accordingly,

IT IS HEREBY ORDERED that Plaintiff Robert Pendergrass' claim for Workers' Compensation Retaliation under Mo. Rev. Stat. § 287.780 (Count V) is **SEVERED** from this action and **REMANDED** to the Circuit Court of Saint Louis County, Missouri.

IT IS FURTHER ORDERED that, in light of the parties' Stipulation and the Court's current ruling, Plaintiffs' Motion to Remand (Doc. 8) is **DENIED, as moot**.

Dated this 7th day of August, 2018.

/s/ Noelle C. Collins
NOELLE C. COLLINS
UNITED STATES MAGISTRATE JUDGE

Magistrate Judge pursuant to Title 28 U.S.C. § 636(c) (Doc. 11).